

## FIRST DIVISION

[ G.R. No. 178039, January 19, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERNESTO UYBOCO Y RAMOS, DEFENDANT-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

Subject of this appeal is the 27 September 2006 Decision<sup>[1]</sup> promulgated by the Court of Appeals, affirming the Regional Trial Court's (RTC) Judgment<sup>[2]</sup> in Criminal Case Nos. 93-130980, 93-132606, and 93-132607, finding Ernesto Uybocho y Ramos (appellant) guilty of three (3) counts of kidnapping for ransom.

Appellant, along with now deceased Colonel Wilfredo Macias (Macias) and several John Does were charged in three separate Informations, which read as follow:

In Criminal Case No. 93-130980:

That in the morning of December 20, 1993 and for sometime subsequent thereto in Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously kidnap, carry away and detain the minor, JESON KEVIN DICHAVES, five (5) years old, against his will and consent, thus depriving him of his liberty, for the purpose of extorting ransom for his release, which after payment thereof in the amount of P1,320,000.00 in cash and P175,000.00 worth of assorted jewelry, including a Colt .45 Caliber Pistol with SN 14836 or a total of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00) was divided by said accused between and/or among themselves to the damage and prejudice of the aforementioned victim/or his parents.<sup>[3]</sup>

In Criminal Case No. 93-132606:

That in the morning of December 20, 1993 and for sometime subsequent thereto in Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously kidnap, carry away and detain the minor, JESON KIRBY DICHAVES, two (2) years old, against his will and consent, thus depriving him of his liberty, for the purpose of extorting ransom for his release, which after payment thereof in the amount of P1,320,000.00 in cash and P175,000.00 worth of assorted jewelry, including a Colt .45 Caliber Pistol

with SN 14836 or a total of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00) was divided by said accused between and/or among themselves to the damage and prejudice of the aforementioned victim/or his parents.<sup>[4]</sup>

In Criminal Case No. 93-132607:

That in the morning of December 20, 1993 and for sometime subsequent thereto in Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously kidnap, carry away and detain NIMFA CELIZ, against her will and consent, thus depriving her of liberty, for the purpose of extorting ransom for her release, which after payment thereof in the amount of P1,320,000.00 in cash and P175,000.00 worth of assorted jewelry, including a Colt .45 Caliber Pistol with SN 14836 or a total of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00) was divided by said accused between and/or among themselves to the damage and prejudice of the aforementioned victim.<sup>[5]</sup>

The arraignment was held in abeyance twice.<sup>[6]</sup> Finally, the arraignment was set on 22 October 1996. Appellant and Macias, with the assistance of their counsels, however refused to enter a plea. This prompted the RTC to enter a plea of "Not Guilty" for each of them. Trial on the merits ensued.

The prosecution presented the following witnesses: Nimfa Celiz (Nimfa), Jepson Dichaves (Jepson), Police Superintendent Gilbert Cruz (P/Supt. Cruz), Police Superintendent Mario Chan (P/Supt. Chan), Police Inspector Cesar Escandor (P/Insp. Escandor) and Carolina Alejo, whose version of facts are summarized as follows:

At around 10:30 a.m. on 20 December 1993, Nimfa and her wards, siblings Jeson Kevin and Jeson Kirby Dichaves were riding in the Isuzu car of the Dichaves family, together with Yusan Dichaves (Yusan). Driver Pepito Acon (Acon) dropped off Yusan at Metrobank in Claro M. Recto Avenue, Manila. While waiting for Yusan, Acon drove along Bilibid Viejo, Sampaloc. When the vehicle passed by in front of San Sebastian Church, a stainless jeep with two men and one woman described as a *tomboy* on board, suddenly blocked its way. One of the men, who was in police uniform accosted Acon and accused him of hitting the son of a Presidential Security Group (PSG) General apparently with a stone when the vehicle ran over it. Acon denied the charges but he was transferred to the stainless jeep while the man in police uniform drove the Isuzu car. The *tomboy* sat next to Nimfa who then had Jeson Kirby sit on her lap while Jeson Kevin was sitting on the *tomboy's* lap. They were brought to a house in Merville Subdivision, Parañaque.<sup>[7]</sup>

While still in garage of the house, Nimfa was able to sneak out of the car and place a call to the secretary of her employer to inform the latter that they were in Merville Subdivision. She came back to the car undetected and after a while, she and her wards were asked to alight from the car and they were locked inside the comfort

room.<sup>[8]</sup>

Jepson was at his office at 10:00 a.m. of 20 December 1993. He received a call from his wife asking him if Nimfa or Acon called up, as she had been waiting for them at Metrobank where she was dropped off earlier. After 15 minutes, Yusan called again and was already hysterical because she could not find the car when she roamed around the area. Jepson immediately called up his brother Jaime and some police officers to inform them that his sons were missing. When Jepson arrived at Metrobank at around 11:30 a.m., he received a call from his secretary informing him that Nimfa called about their whereabouts. When Jepson got back to his office, his secretary informed him that an unidentified man called to inform them that he has custody of the children and demanded P26 Million.<sup>[9]</sup>

Meanwhile in Merville Subdivision, the man in police uniform introduced himself to Nimfa as Sarge. He asked Nimfa for information regarding her name and her employer's telephone number. She feigned ignorance of those information. She even claimed that she was merely a new employee.<sup>[10]</sup> Sarge informed Nimfa that they were in Fairview and that she was asked if she knew how to go home. Nimfa chose to stay with her wards. When the phone rang, Sarge went out of the house and Nimfa again sneaked a phone call to her employer informing them that they were being held up in Merville Subdivision.<sup>[11]</sup>

Jepson, through Jaime's help, went to the house of then Vice-President Joseph Estrada (Vice-President Estrada) at 8:00 p.m. Thereat, he met General Jewel Canson (Gen. Canson), General Panfilo Lacson (Gen. Lacson) and Major Ray Aquino (Major Aquino). Vice-President Estrada ordered the police generals to rescue Jepson's sons and arrest the kidnappers.<sup>[12]</sup>

At 6:00 p.m., the kidnappers called Jepson and reduced the ransom to P10 Million.<sup>[13]</sup> That night, Nimfa was able to speak to Jepson when two men handed the telephone to her. She recognized one of them as appellant, because she had seen the latter in her employer's office sometime in the first week of December 1993.<sup>[14]</sup>

On the following noon of 21 December 1993, the kidnappers called up Jepson numerous times to negotiate for the ransom. In one of those calls, Jepson was able to recognize the voice of appellant because he had several business transactions with the latter and they have talked for at least a hundred times during a span of two to four years.<sup>[15]</sup>

On 22 December 1993, the parties finally agreed to a ransom of P1.5 Million. Jepson offered P1.3 Million in cash and the balance to be paid in kind, such as jewelry and a pistol.<sup>[16]</sup> Appellant asked Jepson to bring the ransom alone at Pancake House in Magallanes Commercial Center. Jepson called up Gen. Canson and Gen. Lacson to inform them of the pay-off.<sup>[17]</sup>

At around 1:00 p.m. of even date, Nimfa was able to talk to Jepson and the latter informed her that they would be released that afternoon.<sup>[18]</sup> At 3:00 p.m., Jepson drove his white Toyota Corolla car and proceeded to Pancake House in Magallanes Commercial Center. He placed the money inside a gray bag and put it on the backseat. Jepson received a call from appellant at 4:00 p.m. who ordered him to put

the bag in the trunk, leave the trunk unlocked, and walk away for ten (10) minutes without turning back. Later, appellant checked on his trunk and the bag was already gone. Appellant then apprised him that his sons and helper were already at the Shell Gasoline Station along South Luzon Expressway. He immediately went to the place and found his sons and helper seated at the corner of the gas station.<sup>[19]</sup>

P/Insp. Escandor was assigned to proceed to Magallanes Commercial Center, together with two other police officers. They reached the place at 3:30 p.m. and positioned themselves in front of the Maranao Arcade located at Magallanes Commercial Center. He brought a camera to cover the supposed pay-off. He took a total of 24 shots.<sup>[20]</sup> He identified Macias together with appellant in Magallanes Commercial Center and the latter as the one who took the ransom.<sup>[21]</sup>

P/Supt. Chan was one of the team leaders dispatched also at Magallanes Commercial Center in Makati on 22 December 1993 to take a video coverage on the supposed pay-off. He witnessed the pay-off and identified appellant as the one who took the bag containing the ransom money from the car trunk of Jepson.<sup>[22]</sup>

P/Supt. Cruz is assigned to the now defunct Presidential Anti-Crime Commission Task Force Habagat and one of the team leaders of Special Project Task Force organized on 22 December 1993 with the primary task of apprehending the kidnappers of Dichaves' children and helper. His group was assigned at Fort Bonifacio to await instructions from the overall Field Command Officer Gen. Lacson. They had been waiting from 4:00 p.m. until 6:00 p.m. when they received information that the kidnap victims were released unharmed. They were further asked to maintain their position in Fort Bonifacio. At around 7:45 p.m., they heard on their radio that the suspect's vehicle, a red Nissan Sentra was heading in their direction. A few minutes later, they saw the red car and tailed it until it reached Dasmariñas Village in Makati. They continuously followed the car inside the village. When said car slowed down, they blocked it and immediately approached the vehicle.<sup>[23]</sup>

They introduced themselves as police officers and accosted the suspect, who turned out to be appellant. Appellant suddenly pulled a .38 caliber revolver and a scuffle took place. They managed to subdue appellant and handcuffed him. Appellant was requested to open the compartment and a gray bag was found inside. P/Supt. Cruz saw money, jewelry and a gun inside the bag. Appellant was then brought to Camp Crame for questioning.<sup>[24]</sup>

At 8:00 p.m., Jepson received a call from Gen. Lacson asking him to go to Camp Crame. He and Nimfa went to Camp Crame where he saw appellant alone in the office of Gen. Canson. He then saw the bag containing the ransom money, pieces of jewelry and his gun on the table. Photographs were taken and Jepson was asked to identify them.<sup>[25]</sup>

A written inventory was prepared on the contents of the bag.<sup>[26]</sup> It was found out that a portion of the ransom money was missing. It was then that appellant revealed that the missing money was in the possession of Macias. Appellant accompanied P/Supt. Cruz and his team to the residence of Macias in Camp Aguinaldo. P/Supt. Cruz waited for Macias until 4:00 a.m. on the following day and

placed him under arrest. Macias was asked where the rest of the ransom money was and Macias went inside the house and retrieved a red bag inside a small cabinet. P/Supt. Cruz prepared a receipt of the seized property from Macias. Macias placed his signature on the receipt.<sup>[27]</sup>

Carolina Alejo was the owner of the house in Merville Subdivision where the kidnap victims were detained. She stated that she leased the house to appellant. On 23 December 1993, it came to her knowledge that said house was used in the kidnapping. She noticed that the lock of the comfort room was reversed so that it could only be locked from the outside. She considered this unusual because she personally caused the door knob to be installed.<sup>[28]</sup>

The defense, on its part, presented appellant, Florinda Sese Barcelona (Ms. Sese), Dr. Jaime Leal (Dr. Leal), and retired Colonel Ramon Navarro (Col. Navarro).

Appellant testified that he came to know Jepson when he was introduced to him by Col. Navarro in 1989 as the importer of police equipment and accessories. Jepson wanted to buy revolving lights, police sirens and paging system. Through Navarro, appellant also met Macias who was then selling his security agency in July 1993. He admitted that Jepson had been lending him money since 1990 and his total borrowings amounted to P8.5 Million in December 1993. Appellant also knew Nimfa since 1990 and had met her five (5) times in the office of Jepson where Nimfa usually served him coffee.<sup>[29]</sup>

In December 1993, he rented a house in Merville Subdivision for his mother. He was given the key to the house in 15 December 1993 but he denied going to said place on 20, 21, 22, 23 of December 1993.

At 3:00 p.m. of 20 December 1993, he received a call from Jepson asking for P1 Million, as partial payment of his loan. Jepson informed appellant that his sons were kidnapped and he requested appellant to negotiate with the kidnappers for the release of his children. Out of pity, appellant agreed. He actively participated in the negotiations between 20 to 22 of December 1993, where he successfully negotiated a lower ransom of P1.5 Million.

On 11:30 a.m. of 22 December 1993, Jepson again requested appellant to deliver the ransom money to the kidnappers. Appellant acceded to the request. He asked Macias, who was in his office that day, to accompany him. The kidnappers asked appellant to proceed to the Makati area and wait for further instructions. Appellant called up Jepson who told him that he would deliver the money to appellant once instructions were given by the kidnappers. The kidnappers finally called and asked appellant to proceed to Shell Gasoline Station-Magallanes. He informed Jepson of this fact and the latter asked appellant to meet him in Magallanes Commercial Center where he would just put the money inside the car trunk and leave it unlocked. Appellant took the money from Jepson's car and put it inside his car trunk and proceeded to Shell Gasoline station.<sup>[30]</sup> Appellant and Macias did not see the kidnappers and Jepson's children at the station. He tried calling Jepson but failed to communicate with him. They then decided to go back to the office in Cubao, Quezon City. At 7:00 p.m., he received a call from the kidnappers who were cursing him because they apparently went to the Shell Gasoline Station and noticed that there were many policemen stationed in the area, which prompted them to